

TERMINAL DISCLAIMER TO OBLIGATE A PROVISIONAL DOUBLE PATENTING
REJECTION OVER A PENDING "REFERENCE" APPLICATIONDocket Number (Optional)
10165-010-999

In re Application of: Brines et al.

Application No.: 09/717,057

Filed: November 21, 2000

For: MODULATION OF EXCITABLE TISSUE FUNCTION BY PERIPHERALLY ADMINISTERED ERYTHROPOIETIN

The owner*, The Kenneth S. Warren Institute, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 09/717,053, filed on November 21, 2000, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. The undersigned is an attorney or agent of record. Reg. No. 42,623

Signature

October 5, 2005

Date

Frederick J. Hamble

Typed or printed name

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